



STATE OF DELAWARE


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MEMORANDUM

TO: The Chair and Commissioners

FROM: Lisa B. Driggins, Public Utilities Analyst 

DATE: August 19, 2015

SUBJECT: IN THE MATTER OF THE APPLICATION OF ARTESIAN WATER COMPANY, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PURSUANT TO 26 DEL. C. §203C "ROUTE 9 AREA" (SUBMITTED JUNE 4, 2015; FILED JUNE 18, 2015; AMENDED AUGUST 7, 2015) – PSC DOCKET NO. 15-1025

On June 4, 2015, Artesian Water Company, Inc. ("Artesian" or the "Company") submitted an application ("Application") with the Delaware Public Service Commission (the "Commission") seeking a Certificate of Public Convenience and Necessity ("CPCN") to provide water services to four parcels of land in Sussex County, Delaware, known as Route 9 Area (the "Proposed Service Area") pursuant to 26 *Del. C.* §203C(e)(1)b.

As required by 26 *Del. C.* §203C(e)(1)b. and the Commission's Regulations Governing Certificates of Public Convenience and Necessity for Water Utilities, 26 *Del. Admin. C.* §2002 (the "Regulations"), the submitted Application contained the following documentation: (1) a copy of a petition signed by all of the landowners of record included in the Proposed Service Area requesting to be included in the Proposed Service Area; (2) copies of the United States Postal Service forms verifying that the Company sent, via certified mail, a Commission approved notice to all landowners of record of each parcel included in the Proposed Service Area; (3) a list of the County tax map parcel identification numbers of the properties and identification of all landowners of record included in the Proposed Service Area;¹ and (4) a copy of the associated tax map clearly marking the Proposed Service Area. Additionally, the Application contained Artesian's statement that its expansion of service to the Proposed Service Area will comply with the water pressure requirements of 26 *Del. C.*

¹At Staff's request, Artesian submitted a written certification that the Company (i) reviewed the appropriate tax or land record documents relating to the Proposed Service Area; (ii) confirmed that the landowner identified in the parcel listing are the landowners of record; and (iii) confirmed that the petitions included in the Application have been signed by each landowner of record.

§§403(a) and (b) and that Artesian is not barred by any of the restrictions set forth in 26 *Del. C.* §403(c).

In addition to the required notification to all the landowners of record in the Proposed Service Area, Artesian published a notice in The News Journal on June 6, 2015, and Delaware State News newspaper on June 6, 2015. The notice advised residents of the Application, that the Application may be reviewed at the Commission's office during normal business hours or on the Commission's website, that a hearing on this matter would not be held unless an appropriate request for a hearing was received, and that the property owner may object to or "opt-out" of the Proposed Service Area. To date, no comments regarding the Company or this Application have been received, and no landowners of record included in the Proposed Service Area have objected to the Application or elected to "opt-out" of the Proposed Service Area.

At the request of Staff, the Company filed on June 18, 2015, additional required information to show that the individual who signed one of the petitions for water service was legally authorized to sign and submit such document on behalf of the landowner of record.² At that time, the submitted Application and this additional required information completed the filing (the "Complete Application").

On August 7, 2015, the Company requested a waiver of the timing requirement in accordance 26 *Del. Admin. C.* §2002-9.2. The Application was not deemed complete until June 18th a date that is outside of the required time line necessary to file a CPCN Application.³ As a "good cause," the Company submits granting the requested waiver would be in the public interest because the timing requirement is an administrative rather than a statutory requirement and Artesian had provided all necessary information about the parcels. Additionally, Artesian understands that no customer complaints have been made regarding the Completed Application. Furthermore, Artesian believes that granting the waiver should not be unduly disruptive for customers and would provide for an administratively efficient use of resources. Lastly, Artesian believes that extending water service to the parcels listed in the Completed Application would not harm or degrade its ability to provide safe, reliable water service for its present customers. Staff believes that the reasons given as "good cause" justify a waiver, therefore Staff recommends that the Commission grant the requested waiver of the timing requirement as set forth in Section 9.2 of the Regulations.

Staff reviewed the Completed Application to ensure compliance with the statutory provisions of 26 *Del. C.* §203C and the Regulations. No errors or omissions were found. Finally, to determine whether the Commission should deny the requested CPCN as set forth in 26 *Del. C.* §203C(f), Staff solicited comments from the Delaware Department of Natural Resources and Environmental Control, the Office of the State Fire Marshal, and the Office of Drinking Water of the Division of Public Health. All three agencies responded and confirmed they have no issues relating to Artesian's ability to provide safe, adequate, and reliable water services to its existing customers.

² Under 26 *Del. Admin. C.* §2002-8.4, if a petition for water utility services is executed by an agent of the landowner of record, the applicant must provide with the petition evidence to demonstrate the agent's authority to act for the landowner of record. The Company failed to provide such evidence in the originally-submitted Application.

³ Under 26 *Del. Admin. C.* §2002-9.2, the form of notice required by these regulations shall be sent to each landowner of record not more than thirty-five days and not less than thirty days prior to the filing of the Application.

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In summary, Staff recommends that the Commission grant Artesian's requested waiver of the regulatory timing requirement. Staff also finds no reason to deny the Company a CPCN under the provisions of 26 *Del. C.* §203C(f). Therefore, Staff recommends that the Commission grant the Company a CPCN based on the Application.